

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

NEW YORK STATE GAMING COMMISSION,

Plaintiff,

v.

1:22-CV-1140
(DNH/DJS)

ARTEMIEV, *et al.*,

Defendants.

APPEARANCES:

OF COUNSEL:

HESLIN ROTHENBERG FARLEY MESITI
Attorneys for Plaintiff
5 Columbia Circle
Albany, New York 12203

BRETT M. HUTTON, ESQ.
THOMAS L. SICA, ESQ.

DANIEL J. STEWART
United States Magistrate Judge

ORDER

Plaintiff seeks an order from this Court permitting it to conduct discovery. Dkt. No. 28. In this case, no Defendant has appeared and, as a result, no conference pursuant to FED. R. CIV. P. 16 has been held to set a schedule for discovery. Nor have the parties held the conference required under Rule 26(f). Rule 26(d)(1) prohibits a party from seeking “discovery from any source” prior to that Rule 26(f) conference, absent a court order. Here, the interests of justice warrant permitting Plaintiff to engage in the limited discovery it now seeks. Therefore, the Court grants the Motion for leave to conduct discovery through the service of the two subpoenas provided with the Motion.

Under FED. R. CIV. P. 45(a)(4), Plaintiff is required to provide notice to all parties of its intent to service subpoenas. Here, while no party has officially appeared in the action, counsel for Plaintiff has been in communication with attorneys who have indicated that they represent Defendants. Plaintiff's counsel is authorized to provide the notice required under Rule 45 to counsel with whom they have previously communicated on behalf of Defendants.

ACCORDINGLY, it is hereby

ORDERED, that Plaintiff's Discovery Motion (Dkt. No. 28) is **GRANTED**; and it is further

ORDERED, that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: November 8, 2023
Albany, New York



Daniel J. Stewart
U.S. Magistrate Judge